

Gabriel Moss QC

QC 1989, Called to the Bar 1974

+44 (0)20 7696 9900

gabrielmoss@southsquare.com



Gabriel specialises in UK, EU, EEA and international insolvency and restructuring, as well as company, banking, financial services, commercial chancery and offshore law and litigation. He has provided expert evidence for cases in the US, France, Germany, Australia, Greece, The Netherlands, Italy, Iceland, Poland and Switzerland. Gabriel sits part-time as a deputy High Court judge of the Chancery Division and is a part-time Visiting Professor in Corporate Insolvency Law at Oxford University.

In the last few years, Gabriel has acted as leading counsel in eleven major Supreme Court, Privy Council, CJEU and EFTA Court cases involving insolvency, banking and commercial chancery matters: *Heritable v Landsbanki*, *Rubin v Eurofinance*, *New Cap v Grant*, *BNY Corporate Trustees Services v Eurosail*, *Re Nortel*, *Re Lehman*, *Re Kaupthing Singer & Friedlander*, *Perpetual Trustee Co v BNY Corporate Trustee*, *PWC v Saad Investments Co Ltd*, *Singularis Holdings Ltd v PW*, *LBI hf v Merrill Lynch International Ltd*, *Works Council of Nortel Networks SA v Liquidator of Networks SA* and the Joint Administrators of the *Nortel Group* and *Olympic Airlines*.

In May 2016, Gabriel was appointed as specialist legal adviser (together with Hannah Thornley and Ryan Perkins) to the Work and Pensions and Business Innovation and Skills House of Commons Select Committees in relation to the BHS inquiry.

Gabriel appears in the top category of QCs rated by Chambers & Partners (UK and Global) and in Legal 500 for insolvency and restructuring.

Who's Who Legal: Restructuring and Insolvency 2016 lists Gabriel as one of only 15 "Most Highly Regarded Individuals" in the world, and one of five for England.

Comments include:

"Second to none in his understanding of all facets of insolvency law." Who's Who Legal 2016

"A heavyweight insolvency silk who is described by his peers as 'utterly fantastic'." Chambers UK 2016

"He is a genius. He picks up complex matters and sorts through all the rubbish in a very excellent way." Chambers UK 2016

"A major figure at the insolvency Bar...also adept at handling company, bank and financial services matters." Chambers UK 2016

"A towering figure in the Insolvency Bar, dubbed 'the godfather of insolvency law'." Chambers UK 2015

"He is a fount of knowledge, and so clear in his exposition of complex legal issues." Chambers UK 2015

"A walking encyclopaedia of insolvency law." Chambers UK 2015

"The guru on insolvency and the go-to person for cross-border insolvency questions." Legal 500 2014

AREAS OF PRACTICE

Insolvency and Restructuring

Cases include:

Air Europe, *Atlantic Computers*, *British and Commonwealth*, *Cenargo* (US/UK/EU), *Chrysler*, *Collins & Aikman* (UK / EU), *Coloroll*, *Courts*, *Dan Air*, *Drexel*, *Dynegy*, *Energis*, *Enron Directo* (UK/Spain), *Eurodis* (UK/Netherlands), *Eurotunnel*

(UK/France), *Fairfield Sentry* (BVI/US), *Farepak*, *Federal Mogul/T&N* (US/UK), *Ferranti GPA* (Ireland/UK), *International Leisure Group*, *ITV Digital*, *Kentish Homes*, *Leyland Daf*, *Lowndes Queensway*, *Madoff* (UK/France/Cayman/BVI), *Maxwell/RMG/MCC/Mirror* (US/UK), *Metronet*, *MF Global* (UK/France), *Mount Capital* (BVI/US), *Mountleigh*, *MG/Rover*, *Asil Nadir/Polly Peck* (UK/Cyprus/Turkey), *Ocean Marine*, *Olympia & York*, *Olympic Airlines* (UK/Greece), *Orion*(UK/US), *Parkfield*, *Polestar*, *Powerhouse*, *Quinn Group companies* (Ireland/Northern Ireland/BVI/Belize/India/Ukraine/Russia), *Railtrack* (UK railway system), *Rush and Tompkins*, *Spectrum Plus*, *TXU* (Europe), *Stojevic* (UK/Austria), *Woolworths*, *Wind Hellas*, *Hellas II*, *Yukos* (Russia/US/UK)

Banking and Finance

Cases include:

- Acting as leading counsel on the Bank of England's winding up petition against BCCI and obtaining the appointment of Provisional Liquidators to BCCI
- Acting as leading counsel for FSA on entry into administration of **LBIE**
- Advising the FSA, Treasury and FSCS in the UK and financial regulators in Gibraltar, Guernsey, Hong Kong and Bermuda

Barings (UK/Singapore), *BCCI* (UK/ Cayman/ Luxemburg), *Bradford & Bingley*, *British & Commonwealth Bank*, *Cheyne Finance*, *Dunfermline Building Society*, *Glitnir* (UK/Iceland), *Icesave*, *Kaupthing* (UK/Iceland), *Kaupthing Singer & Friedlander*, *Landsbanki/LBI* (UK/Iceland), *Lehman Brothers International (Europe)* and other *Lehman entities* (UK/US/Switzerland), *MF Global*, *Northern Rock*, *Novo Banco* (UK/Portugal), *Rafidain Bank* (UK/Iraq), *Sigma Finance*, *Unexim Bank* (Russia)

Company

Cases include:

Asia Pulp & Paper (Bermuda/Singapore/Indonesia/PRC), *Baltic* (Jersey/Sweden), *Bluebrook/IMO* (world's largest car-washing group), *British Vita Group* (UK/EU), *Flag Group* (Bermuda), *GRAND (Deutsche Annington)* (UK/Germany), *Global Crossing* (US/Bermuda), *Icopal* (US/Denmark/France/UK), *MRM* (Bermuda), *PHS Group Plc* (UK/EU), *Stemcor Trade Finance Limited* (UK/India), *Telecolumbus* (UK/EU), *Zodiac* (US/Finland/France)

International and Offshore

- Admitted generally in Gibraltar and East Caribbean Supreme Court (including BVI)
- Admitted in relation to specific cases to Bars of Bermuda, The Cayman Islands, Hong Kong, Isle of Man
- Expert witness in Bankruptcy Court for the Southern District of New York in relation to English and Bermudian law in the **Hopewell** case, solvent Bermudian scheme of arrangement
- Expert witness on Guernsey law of Protected Cell Companies in English Commercial Court and in an international arbitration

Cases include:

Leading counsel on major reorganisation employing parallel BVI and Hong Kong proceedings (CSA), advised on successful major reorganisation of BVI investment group involving about USD 1 billion of assets (*Grand Prix*), *Armada* (Singapore/UK/US), *Barlow Clowes* (Gibraltar), *CA Pacific Group* (Hong Kong), *Carlyle Capital Corp* (US/Guernsey), *Carrian* (Hong Kong), *Global Crossing* (Bermuda/US), *Guangdong Provincial Government Window Companies* (Hong Kong), *ICO Global group* (US/Bermuda/Cayman), *IPOC* (Bermuda), *Kong Wah/Akai* (Hong Kong), *Manhattan Investment Fund* (US/Cayman/Bermuda), *Metro Trading International* (UK/Gulf), *New Cap Re* (Bermuda/Australia/UK), *NTV* (Russia/Gibraltar), *Parmalat/Eurofood* (Cayman/Ireland/Italy/US), *Peregrine* (Hong Kong/UK), *Pan Electric* (Singapore), *Primeo Fund* (US/Cayman), *Saad/Singularis* (Cayman/Bermuda)

EU and EEA related roles and cases include:

- Leading Counsel for Olympic Airlines Pension Fund Trustees in Supreme Court appeal in the *Olympic Airlines* case
- Member of private expert group appointed by European Commission to advise on reforms to the EC Regulation on insolvency proceedings (2012-2015) and on introducing a proposed Directive prescribing minimum standards for pre-insolvency proceedings (2013-)
- Member of the Review Panel formed by the UK Insolvency Service to assist in considering changes to English law and practice in the light of the EU Insolvency Regulation (2000-)
- Invited to speak as one of four experts at a public hearing held by the Legal Affairs Committee of the European Parliament on the draft European Insolvency Convention (April 1998), which led to the passing of the Regulation on insolvency proceedings (1346/2000)
- Leading Counsel for Italian special administrator in the ***Eurofood*** case in the European Court of Justice
- Expert witness in Italian courts on English and European insolvency law in relation to various claims by and against ***Parmalat***
- Co-Counsel for UK administrators of ***Nortel Networks SA*** in relation to proceeding in the Court of Justice of the European Union (Case C-649/13)
- Advising on and acting as expert witness and leading counsel in Icelandic bank cases in relation to ***Landsbanki, Kaupthing and Glitnir***

Other EU insolvency cases include:

- ***Elektrim*** (UK/Poland)
- ***Enron Directo*** (UK/Spain)
- ***Daisytek*** (UK/France/Germany)
- ***Eurodis*** (UK/Netherlands)
- ***Stojevic*** (UK/Austria)
- ***Quinn*** (UK/Ireland)
- ***O'Donnell*** (UK/Ireland)
- ***McNamara*** (UK/Ireland)

Insurance

Cases include:

BAIC (UK/US), *Bermuda Fire & Marine* (Bermuda/US), *Continental* (UK/BVI), English and American Insurance Company Limited, *Equitable Life GAR scheme* (UK/Germany/Greece), *HIH* (US/UK/Australia), *KWELM insurance companies* (US/UK/Bermuda), *Municipal Mutual/MGI*, *NEMGIA* (UK/Australia), *WFUM Pools/Sovereign* (UK/France/Ireland), *Travellers Casualty & Surety Co and others v Commissioners of Customs and Excise* (meaning of “reinsurance” for purposes of IPT), *Freakley v Centre Re* [2004] EWHC 2740 (effect of proposed Chapter 11 Plan on insurance and reinsurance)

Sport

- ***HMRC v Football League*** [2013] 1 BCLC 285, football creditor rule

Member of the FA Premier League Disciplinary Panel (for insolvency matters)

Pensions

Roles and cases include:

- Acting as DTI Inspector in relation to *The Bestwood* and *Atlanta Fund Managers* (report published by HMSO in 1994), investigated and reported on the improper use of pension funds and made recommendations on law reform to safeguard

pension funds

- Advised on pension problems relating to major collapses such as **T&N**, in parallel US Chapter 11 and UK administration, **Nortel** and **Lehman**. As lead counsel conducted the defence of *Credit Suisse* in a major trial against pension funds relating to the affairs of Robert Maxwell and his companies.
- Advised pension trustees and the Pensions Regulator in various matters
- Lead counsel for **Lehman** Pension Trustees in Supreme Court case concerning **Nortel** and **Lehman** pension funds
- Advised and appeared for **Boxclever** pension trustees before Determinations Panel
- Advised and acting for Olympic Airlines pension trustees seeking to wind up the airline in England on appeal to Supreme Court

CAREER

1989 Appointed Queen's Counsel

1974 Called to the Bar of England and Wales

APPOINTMENTS

- 2011- PRIME panel of financial experts
- 2001-2010 Member (by invitation) of the International Insolvency Institute and Co-Chair of Committee on Inter-Court Communications in Insolvency Matters; 2003-2010 Director; 2010- Director Emeritus
- 2008- LIFFE adjudicator
- 2005-2006 Review Panel set up by the Insolvency Lawyers Association to consider the enactment of the UNCITRAL Model Law in Great Britain; 2007- the extension of the Model Law to banks and insurers
- 2007-2013 FMLC Working Group on Building Society and Incorporated Friendly Society Set-Off FMLC Working Group on Financial Collateral
- 2006-2013 Financial Markets Law Committee of the Bank of England
- 2006- International Advisor to the American Law Institute/International Insolvency Institute project on Transnational Insolvency: Principles of Co-Operation
- 2003-2013 FMLC Working Group on Property Interests in Investment Securities
- 2001- Authorised by the Lord Chancellor to sit as a Deputy High Court Judge

Judgments given while sitting as deputy High Court Judge of the Chancery Division include:

- **Internet Broadcasting Corp (t/a Nettv) v Marr LLC** [2009] 2 Lloyd's Rep 295, exclusion clause and fundamental breach
- **Enviroco v Farstad Supply A/S** [2009] 2 BCLC 225, meaning of "affiliate" and "subsidiary"
- **The Governors of the Peabody Trust v Reeve** Times Online Law Reports 9 June 2008, right of unilateral contract variation, unfair contract terms
- **Tamares v Fairpoint** [2007] 1 WLR 2148, rights to light, damages in lieu of injunction
- **Nexus Communications v Lambert** Times 3 March 2005, doctrine of election
- **Macepark v Sargeant** [2004] 3 All ER 1090, rights of way
- **FSA v Dobb White** [2004] BPIR 479, application of EC Regulation on insolvency proceedings
- **Shepherd v Legal Services Commission** [2003] BCC 728, bankruptcy
- **Parker v C.S. Structured Credit Fund Ltd** [2003] 1 WLR 1680, disclosure and freezing injunctions
- **Official Receiver v Zwirn** [2002] BCC 760, disqualification of directors
- **Blight v Brewster** [2012] 1 WLR 2841, execution against pension

1996- Associate Member of Insol Europe; 2001- Full Member
2000- Editorial Board of International Insolvency Review (Wiley)
March 1999- Full Member (by invitation) of the Insolvency Lawyers' Association
Nov 1998 Elected as Benchers (member of governing body) of Lincoln's Inn, one of the four Inns of Court which make up the English Bar
Nov 1998 Elected as Fellow of the Society for Advanced Legal Studies at the Institute of Advanced Legal Studies, London University
1994- Association of Fellows and Legal Scholars of the Center for International Legal Studies, Salzburg
1993- Insolvency Committee of Justice, the British section of the International Commission of Jurists
1993- Advisory Editorial Board of The Receivers Administrators and Liquidators Quarterly
1992- Editorial Board of Insolvency Intelligence (Sweet & Maxwell); (1994-) Chairman
1991- Insolvency Law Sub-Committee of the Consumer and Commercial Law Committee of the Law Society
1989 Department of Trade Inspector into The Bestwood Plc
1989 Appointed by the Secretary of Trade and Industry as the Secretary of State's arbitrator in a commercial arbitration

PUBLICATIONS

Co-Editor of **Rowlatt on Principal and Surety** (Sweet and Maxwell, fourth edition 1982, fifth edition 1999, sixth edition 2011)
Co-Editor of **Lightman and Moss, Law of Administrators and Receivers of Companies**
(Sweet and Maxwell first edition 1986, second edition 1994, third edition 2000, fourth edition 2007, fifth edition 2011)
Contributor to the **Comparative Law Yearbook of International Business**
Joint Consultant Editor of **Totty Moss and Segal on Insolvency** (5 volume encyclopaedia of insolvency law) (Sweet and Maxwell, 1996-)
Joint Author of chapter 6 "Cross-Border Issues" in **Insolvency of Banks** (Oditah, 1996)
FT Law and Tax
Joint Author of chapter 6 "Cross-Border Security Enforcement and the Conflict of Laws" in **Restitution and Banking Law** (Rose, Mansfield Press, 1998)
Editor in Chief of and contributor to **Moss Kawaley Seife and Montgomery; Cross-Frontier Insolvency of Insurance Companies** (Sweet and Maxwell, 2001)
Joint Editor of and contributor to **Moss Fletcher and Isaacs; The EC Regulation on Insolvency Proceedings: A commentary and Annotated Guide** (OUP 2002; second edition, 2009, third edition, 2016)
Joint Editor of and contributor to **Moss and Wessels; EU Banking and Insurance Insolvency** (OUP, 2006), second edition in preparation
Author of chapter "The Decision in Spectrum Plus" in **Company Charges: Spectrum and Beyond** (Getzler and Payne, OUP, 2006)
Author of chapter "Intermediated Securities: Issues Arising From Insolvency" in **Intermediated Securities: Legal Problems and Practical Issues** (Gullifer and Payne, Hart Publishing, 2010)
Co-Author of chapter "Giving Effect to Debt Compromise Arrangements" in **Mallon and Waisman, The Law and Practice of Restructuring in the UK and US** (OUP, 2011)
Author of chapter "The English Law Contribution to Cross-Frontier Recognition and Judicial Assistance" in Perspectives in International Insolvency Law (Kluwer, 2014)
Contributor to Vallens and Giorgini, **Etude Comparative des Procedures D'insolvabilite** (Societe de Legislation Comparee, 2015)

LECTURES AND SEMINARS

2016	Lectures to Bank of Italy/ University of Florence; Max Planck Institute, Luxembourg / Universities of Milan and Vienna
2015	Lecture to French and other EU insolvency judges at Ecole Nationale de la Magistrature
2014	Lecture to Belgian and other EU insolvency judges at Durbuy
2012	Lecture at Leipzig University
2011-	Part-time Visiting Professor in Corporate Insolvency Law at the University of Oxford and Visiting Fellow at St Catherine's College Oxford
2009	Lectures at Leiden and Cologne Universities
2008	Lecture to NYU School of Law, relayed to Tulane University Law School and University of Utah
2005	Lecture to Brooklyn Law School at the University of Bologna
Mid-late 1970s	Part-time Lecturer/Tutor at St Edmund Hall & St Catherine Colleges, Oxford University
1972-73	Lecturer in Law at the University of Connecticut Law School

EDUCATION AND QUALIFICATIONS

1972	Oxford University, BCL
1971	Oxford University, BA Jurisprudence, First Class Honours

PRIZES AND SCHOLARSHIPS

Hardwicke and Casell Scholarships (Lincoln's Inn)
Eldon Scholarship (Oxford University)
Honorary Scholar (St Catherine's College, Oxford University)

LANGUAGES

French (working legal knowledge)
Hungarian (colloquial)

INTERESTS

Tennis, Opera, Concerts, Theatre, Cinema, Travel
